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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gordon J. Smith : Date: January 10, 2005
Group Art Unit: 3629 : IBM Corporation
Examiner: T. Nguyen : Intellectual Property Law
Serial No.: 09/781,010 : Dept. 917, Bldg. 006-1
Filed: February 9, 2001 : 3605 Highway 52 North
Title: SYSTEM AND METHOD FOR : Rochester, MN 55901
ENABLING USERS OF GAMING
ACTIVITIES TO AUTOMATE THEIR
TAX DEDUCTIBLE AND
CHARITABLE CONTRIBUTIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPEAL BRIEF IN SUPPORT OF APPEAL
FROM THE PRIMARY EXAMINER TO THE BOARD OF APPEALS**

Sir:

This is an appeal of a Final Rejection under 35 U.S.C. §103(a) of claims 1-9 and 21-31 of application Serial No. 09/781,010, filed February 9, 2001. This brief is submitted pursuant to a Notice of Appeal filed November 9, 2004, as required by 37 C.F.R. §1.192.

1. Real Party in Interest

International Business Machines Corporation of Armonk, NY, is the real party in interest. The inventor assigned his interest as recorded on February 9, 2001, on Reel 011593, Frame 0108.

Docket No. ROC920000267US1
Serial No. 09/781,010

2. Related Appeals and Interferences

There are no related appeals nor interferences pending with this application.

3. Status of Claims

Claims 1-9 and 21-31 are pending and stand finally rejected. The pending claims at issue in this appeal are set forth in Appendix A.

4. Status of Amendments

The Examiner's Final Rejection herein dated August 9, 2004, rejected claims 1-9 under 35 U.S.C. §101 as directed to non-statutory subject matter, rejected claims 21-31 under 35 U.S.C. §112, second paragraph, as indefinite, and rejected claims 1-9 and 21-31 under 35 U.S.C. §103(a) on prior art grounds. Appellant submitted a responsive Amendment on October 11, 2004, amending claims 21 and 28 in response to the indefiniteness rejection, and traversing the remaining rejections. By Advisory Action dated October 27, 2004, the Examiner indicated that the Amendment would be entered, and further indicated that the rejection of claims 1-9 as directed to non-statutory subject matter was withdrawn.¹

¹ In the Advisory Action, the Examiner did not explicitly state anything with respect to the indefiniteness rejection. However, since appellant's Amendment merely adopted the Examiner's apparent suggestion to clarify a minor detail, and the Examiner entered the amendment, it is assumed that this matter has been satisfied, and the indefiniteness rejection is no longer at issue.

5. Summary of Invention

The invention herein relates to the operation of automated gaming systems, preferably digitally programmed gaming devices, in such a manner as to encourage contributions to charitable organizations.² The exemplary embodiment is an electronic slot machine, although such a gaming device could implement any of various gaming activities in which a wager is made for a possibility of reward, and could be implemented in a remote (e.g. Internet) setting as well as in a local setting (Spec. p., line 28 - p. 10, line 30). In accordance with appellant's preferred embodiment, at approximately the time of making a wager, a player is offered an option to make a charitable pledge which is contingent on the result of the game or wager (Spec. p. 3, lines 3-10; p. 9, line 28 - p. 10; p. 11, lines 4-15, line 4; Fig. 4).³ I.e., the nature of the contingent charitable pledge is that, if the player wins, the pledge takes effect, and the amount of the pledge is automatically deducted from the player's winnings by the automated gaming device (Spec. p. 3, lines -13; p. 13, lines 15-25). If the player loses, the pledge's contingency is not satisfied, and the pledge is a nullity (Spec. p. 13, lines 15-25). In one optional embodiment, a player's odds of winning can be slightly improved if the player makes the pledge, as an incentive to make a pledge (Spec. p. 12, lines 6-22).

² Although the exemplary embodiment involves pledges to charity, the claims do not necessarily restrict the pledge recipients to qualified charities under Section 501(c)(3) of the Internal Revenue Code. For clarity of illustration and explanation, the pledge recipient is herein referred to as a "charity".

³ Appellant's specification discloses that a player could alternatively be presented with additional options, including an option to make a non-contingent pledge which does not depend on the outcome of the gaming activity. However, this aspect is not claimed, and appellant does not contend that the solicitation of a non-contingent pledge in and of itself is patentable subject matter. A key element of all independent claims herein is that the pledge is contingent on the outcome of the gaming activity.

6. Issues

Claims 1-8, 21-25 and 27-30 are finally rejected under 35 U.S.C. 103(a) as obvious over “InterLotto launches first online scratch cards; Alpine Cash the latest game offering from popular Internet Lottery” (herein *Interlotto*) in view of Jaffe, “Beware Charity Season Scams” (herein *Jaffe*). Claim 6 is finally rejected under 35 U.S.C. §103(a) as unpatentable over *Interlotto* and *Jaffe*, and further in view of Torango (US 2003/00600279). Claims 9, 26 and 31 are finally rejected under 35 U.S.C. §103(a) as unpatentable over *Interlotto* and *Jaffe*, and further in view of Ziarno (US 6,253,998). The only issues are whether the claims are prima facie obvious in view of the cited references.

7. Grouping of Claims

Appellant expressly states that, for purposes of appealing the grounds of rejection advanced by the Examiner herein, the claims do not all stand or fall together. For purposes of the present appeal, appellant has divided the claims into two groups, the claims within each group being deemed to stand or fall together:

Group I, consisting of claims 1-9; and

Group II, consisting of claims 21-31.

However, in the event that new references are cited or new arguments advanced for rejection of the claims, appellants reserve the right to argue that additional claims do not stand or fall together.

8. Argument

Appellant asserts that the Examiner failed to establish adequate grounds of rejection for the following reasons:

- I. The Examiner improperly rejected the claims as obvious, because the key feature of offering (a) a voluntary pledge which is (b) contingent on the result of the gaming activity, and (c) made before the user knows the results of the gaming activity, is not disclosed or suggested in any of the cited references.
- II. The Examiner improperly rejected the claims as obvious, because, even assuming a suggestion exists to combine the references, there is nothing in the combination that would suggest appellant's claimed invention.

Overview of Invention

An overview of appellant's invention in light of existing art will be helpful in appreciating the issues herein. The invention herein relates to the operation of automated gaming systems in such a manner as to encourage contributions to charitable organizations, and is intended to take advantage of human psychology to increase charitable giving in a hitherto unexploited context.

In the field of charitable fundraising, numerous techniques are known whereby money can be obtained for various charitable causes. Many of these techniques involve some form of gaming or gambling, or offer something in return to the giver. For example, charitable lotteries are well known, wherein a charitable organization conducts or sponsors a lottery, either all or some portion of the lottery's net proceeds going to the charity. Charities also sometimes sponsor sweepstakes, in which an appeal for a charitable contribution is made at approximately the same time that the potential donor is offered the chance to win some prize. In still other contexts, charities sometimes offer outright gifts or

premiums to those who donate something. These and other techniques have proven useful in certain contexts, and they will no doubt continue to be used by various charities.

Appellant does not propose to replace or modify the various existing techniques. On the contrary, appellant's technique is intended to create and exploit an entirely new market niche in the field of charitable fundraising, which can coexist with the various conventional techniques and thus raise more money for charities. Appellant's technique exploits the following characteristics of human behavior. People are more likely to contribute money when they feel that they have an abundance, but this feeling almost always dissipates over time. Additionally, people are more likely to contribute something which is not really theirs, and which, if they should acquire it at some future time, would only be a windfall. Therefore, it is generally easier to obtain a contribution out of a future windfall (which may or may not occur), than out of something the donor already has. Finally, most gamblers have faith in luck, and are likely to believe that their luck is improved if a portion of their winnings is pledged to charity. This belief can be reinforced by actually increasing the odds of winning if the gambler makes a pledge, as in an optional embodiment of the present invention.

Appellant's invention exploits this newly created niche by offering a gambler using an automated gaming apparatus the opportunity to pledge a contribution which is a part of the gambler's winnings, should there be any. I.e., the pledged amount is a contingent amount, contingent on the gambler winning something. In this way, the gambler is induced to pledge something he won't miss, i.e., the winnings which he doesn't yet have, and may never have. The pledging in advance of the game (before the gambler knows whether there are winnings or not) further exploits the gambler's belief in luck, by giving him a good "lucky" feeling for pledging a charitable contribution, and inducing him to believe he will

be lucky (i.e., he will win) if he makes the pledge.

Appellant's invention involves a combination of three crucial elements, not taught or suggested by the art: (a) the pledge is a user option, i.e., the user is not required to make the pledge in order to play the game; (b) the pledge is taken from the user's winnings, and is contingent upon the result of the gaming option, and (c) the pledge is input before the user is presented with the result of the gaming option.⁴ These elements are recited in all appellant's independent claims.

These crucial elements of appellant's invention are not chosen willy-nilly from a hodgepodge of well-known alternatives. They are essential to making the system work, and exploiting a new market niche. Appellant envisions his invention being used to obtain charitable contributions in the operation of a for-profit casino or similar establishment. In order to be effective, the system must therefore be at least profit-neutral for the casino.⁵ I.e., if the system cuts into the casino's profit, then it is not likely to be used, and one might as well simply ask the casino to make a charitable donation. On the other hand, simply requesting an unconditional donation of the player while the player is engaged in a gaming activity does not provide any new incentive to the player to give, and is not qualitatively

⁴ It is significant that the pledge be obtained before the user knows the result, but not necessarily before the machine determines the result. In a machine which determines a result internally based on a random process, such as a "slot machine" simulated on a digital computing device, the software might well determine the result internally before it asks the user for the pledge. In this case, the result would simply be stored internally, inaccessible to the user.

⁵ It is true that in one embodiment, the player's odds of winning or payout are increased by making a pledge, potentially affecting the casino's bottom line. However, in a game such as slots, there are many ways to hide the actual increase in odds, so that this increase can be negligible. It is the psychological effect of the increase which is important. If it were necessary to maintain strict profit neutrality, the charity could return a small portion of its pledges to the casino to compensate for the alteration of odds.

different from soliciting a contribution in any other venue.

With these considerations in mind, it is therefore essential that a new system for obtaining contributions according to appellant's invention be voluntary, i.e., it is optional with the player whether to make a particular pledge. If a contribution is a pre-condition to participating in the gaming activity, then in effect the payout from the game is being reduced. It is well known that casinos advertise their payout ratios to attract players, and a casino which requires the donation of a portion of gambler winnings would have an unfavorable payout ratio vis-a-vis other casinos. By the same token, it is essential that the contribution come from the player's winnings, for if the charitable contribution came from the casino's net proceeds, then the casino's bottom line would be directly affected. Finally, it is essential that the pledge be made before the player knows the result, since he will be more disposed to make a pledge from money he doesn't yet have, and may furthermore believe he is more likely to obtain if he makes the pledge.

At this point it may be noted that, while appellant takes the position that all claims require that the pledge be an option with the player, it is unclear whether the Examiner agrees with this position. It is for this reason only that appellant has divided the claims into two groups. Claim group II specifically recites allowing the user to make an "optional user pledge", and hence there can be no disagreement that the pledge is optional in the group II claims. Appellant maintains that the pledge is inherently optional in the group I claims as well. The word "optionally" was earlier removed from claim 1 (claim group I) at the insistence of the Examiner.⁶

⁶ It is appellant's position that "pledging a contribution" is inherently a voluntary, or optional, act. For example, claim 1 recites "enabling the user to pledge a contribution..." It simply contradicts the plain meaning of this recitation, not to mention the import of the Specification as a whole, to maintain that this does not require some voluntary act on the part of

- I. The Examiner improperly rejected the claims as obvious, because the key feature of offering (a) a voluntary pledge which is (b) contingent on the result of the gaming activity, and (c) made before the user knows the results of the gaming activity, is not disclosed or suggested in any of the cited references.**

As explained above, the creation and exploitation of a new niche in charitable fundraising requires the solicitation of a contingent pledge made voluntarily before the user knows the result of the gaming activity. Anything less would fail to exploit this particular niche, because it would either significantly reduce the profit of a for-profit casino, or significantly alter the odds/payout ratio of the game itself (making it uncompetitive with similar games), or require the player to make an outright donation of something which is already his without condition or restriction (hence be merely another form of conventional charitable fundraising). While this feature has multiple attributes, it is a single, indivisible feature of the claimed invention, for which there is no rhyme or reason if the attributes are individually separated from the whole. The claims were improperly rejected as obvious because, among other things, none of the cited references disclose or suggest this feature.

Appellant's representative claim 1 recites:

the user to enable the contribution. In previous discussions with the Examiner, the Examiner objected to the word "optionally" in claim 1 as indefinite. At that time, there was some discussion as to whether the word "voluntarily" should be substituted for "optionally". The Examiner ultimately took the position that neither "optionally" nor "voluntarily" was a necessary limitation, that being inherent in the concept of pledging a contribution. Appellant removed the word "optionally" from claim 1 on the basis of this assurance (Amendment of May 24, 2004), and appellant therefore takes the position that this matter of interpretation is settled.

1. A method of automating contributions in a gaming system, said method comprising:
 - (a) prompting a user with a gaming option in an automated gaming system;
 - (b) *enabling the user to pledge a contribution* to an organization, said *pledge being contingent on a result of said gaming option*, said pledge being input to said automated gaming system;
 - (c) permitting the user to make a wager and partake in the gaming option in said automated gaming system, said automated gaming system determining said result using said wager and gaming option;
 - (d) automatically presenting said result to said user from said automated gaming system, said step (d) being performed after said step (b); and
 - (e) *automatically making the contribution to the organization based on the pledge of step (b) and said result.* [emphasis added]

Interlotto, discloses a lottery conducted over the Internet, in which the lottery's organizers promise to donate a portion of the net proceeds of the lottery to charity. This is essentially the same as any number of conventional techniques, in which a charity itself conducts the gaming activity, or a third party conducts the gaming activity and donates some portion of the proceeds to the charity. *Interlotto* does add one twist to the conventional charity-sponsored lottery. In *Interlotto*, the players vote for a charity or charities to receive the net proceeds of the lottery, and these are distributed according to the players' votes.

Jaffe is an article warning of various charity scams, and contains a general discussion of sweepstakes and similar activities. *Jaffe* discloses the well-known fact that organizations sometimes offer a sweepstakes entry or similar opportunity to win something in exchange for or in response to a charitable contribution. In these circumstances, the giving of the charitable contribution may be a pre-condition for the opportunity to win something, or it may be that the contribution is merely solicited at approximately the same time in the hope that the sweepstakes entry will elicit a larger contribution.

The Examiner appears to take the position that *Jaffe* and *Interlotto* disclose that a player can receive a chance to win a prize in exchange for a charitable donation, and that this satisfies the recitations of the claims. Appellant submits that this is nothing more than abstracting the claim recitations to a set of general concepts, i.e., voluntary contributions, lotteries based on chance, and so forth.

Appellants claims specifically recite that the player is allowed to make a pledge which is contingent on the “result” of a gaming activity, that the player then participates in the gaming activity, and the contribution is determined automatically based on the pledge and the “result”. It is clear that “result” refers to the user’s result, not some generalized profit and loss of the gaming organization. A pledge requires some personal contribution attributable to the pledger. The purchase of a lottery ticket is not a pledge, even if some portion of the net proceeds will go to charity. A mere donation of all or a portion of pooled net proceeds of a lottery to charity, as taught in *Interlotto*, has no direct connection with the “result” of the user’s wager, nor does it have any identifiable connection to any particular user.

It is the notion of a ***contingent pledge*** which is an essential part of appellant’s invention, and which is not taught or suggested by any of the cited references. Gaming inherently involves probabilities and contingencies. The Examiner appears to gloss over this lack of teaching or suggestion of a ***contingent pledge*** by holding that anything that get donated to charity or winds up in the gaming organization’s coffers is ultimately contingent upon chance events (“results” of gaming activities). This amounts to a gross abstraction of the invention herein.

Appellant merely asks that “pledge”, “wager”, and “result” be given their ordinary

meaning in the claims. Any fair reading of the claims requires that the pledge be something voluntary with the player, that the amount contributed as a result of the pledge be somehow related to the *player's gaming results* and determined on the basis of the *player's personal pledge*. The claims do not encompass a collective result of casino operations in general in which the player's mere participation in a game is considered a "pledge" (which it manifestly is not). Under any such fair reading, neither *Interlotto* nor *Jaffe* teaches or suggests a *contingent pledge* which depends on the player's results in a gaming activity.

II. The Examiner improperly rejected the claims as obvious, because, even assuming a suggestion exists to combine the references, there is nothing in the combination that would suggest appellants' claimed invention.

Both *Interlotto* and *Jaffe* involve the general field of charitable fundraising from gaming activities. Appellant does not contest the combination of the references as such, appellant believes it is more useful to ask what exactly is suggested by such a combination.

Interlotto discloses a lottery in which part of the proceeds go to charity. *Jaffe* is a warning about various charitable fundraising activities, some of which are considered questionable, including in particular sweepstakes. Appellant submits that the combination of the two doesn't teach or suggest anything beyond their specific disclosures. I.e., various charitable fundraising activities are disclosed in one or the other of the references, but the net result of reading both references is the impression that there are numerous charitable fundraising schemes, specifically, those that are disclosed in the references.

Nor do any of the secondary references provide any of the necessary teaching or suggestion. *Ziarno* is cited to show the automatic generation of receipts for tax purposes (as

recited in dependent claim 9, 26 and 31), but does not teach or suggest anything with respect to the specific form of contribution from a contingent pledge as claimed by appellant. *Torango* is cited to show that a player can increase his odds of winning by contributing more to the game prize, as in buying multiple lottery tickets (which the Examiner believes is related to certain limitations of dependent claim 6). Again, the essential imitations of appellant's invention discussed above, particularly the notion of a contingent pledge, is absent.

Yes, pledges are well-known. Lotteries are well-known. Sweepstakes are well-known. And so on. But for all the various techniques disclosed in the references; the notion of a pledge which is contingent on the results of the pledger's wager in a gaming activity is absent. While general concepts of chance, contingency and charitable contribution are disclosed, there is no suggestion in the references to form the essential elements of appellant's claimed invention.

9. Summary

Appellants disclose and claim a technique for providing increased charitable contributions by creating an entirely new market niche for charitable solicitation. Appellant's new market niche exploits basic psychology of gamblers by requesting a contingent pledge at a time when a gambler will internally trivialize the amount (because it is contingent) and be motivated to give (because he will feel that giving improves is luck in an activity which depends on chance). Charitable donations obtained in this manner do not require direct contribution from the profits of a for-profit gaming organization, nor do they require a donor to pledge what is unrestrictedly his own. While prior art discloses many forms of charitable fundraising associated with gaming activities, at best it discloses only

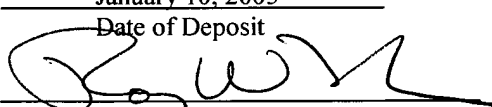
the abstract notions of chance, contingency and contribution. The specific claimed invention requires that a player be offered the option to make a contingent pledge to a charity, the pledge being contingent on the result of the player's wager in gaming activity. These essential elements are not taught or suggested by the cited art.

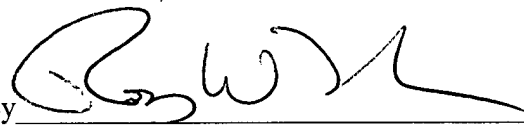
For all the reasons stated herein, the rejections for obviousness were improper, and appellant respectfully requests that the Examiner's rejections of the claims be reversed.

Date: January 10, 2005

Respectfully submitted,

GORDON J. SMITH

<p style="text-align: center;">CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)</p> <p>I hereby certify that the enclosed or attached correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on</p> <p style="text-align: center;"><u>January 10, 2005</u> Date of Deposit</p> <p style="text-align: center;"> Roy W. Truelson</p>
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By 
Roy W. Truelson, Attorney
Registration No. 34,265

From:

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APPENDIX A (CLAIMS)

1 1. A method of automating contributions in a gaming system, said method comprising:

2 (a) prompting a user with a gaming option in an automated gaming system;

3 (b) enabling the user to pledge a contribution to an organization, said pledge being
4 contingent on a result of said gaming option, said pledge being input to said automated
5 gaming system;

6 (c) permitting the user to make a wager and partake in the gaming option in said
7 automated gaming system, said automated gaming system determining said result using said
8 wager and gaming option;

9 (d) automatically presenting said result to said user from said automated gaming
10 system, said step (d) being performed after said step (b); and

11 (e) automatically making the contribution to the organization based on the pledge of
12 step (b) and said result.

1 2. The method of claim 1 wherein step (b) further comprises allowing the user to
2 select the organization.

1 3. The method of claim 1 wherein step (b) further comprises allowing the user to
2 select a size of the contribution.

1 4. The method of claim 1 wherein the gaming option has a first odds of winning in
2 step (a), and a second odds of winning based on the pledge of step (b).

1 5. The method of claim 1 wherein an odds of winning the gaming option is related to
2 the pledge of step (b).

- 1 6. The method of claim 1 wherein the gaming option has a first payout in step (a),
2 and a second payout based on the pledge of step (b).
- 1 7. The method of claim 1 wherein a payout for winning the gaming option is related
2 to the pledge of step (b).
- 1 8. The method of claim 1, further comprising the step of accumulating contributions
2 for the user during a series of gaming activities.
- 1 9. The method of claim 1, further comprising the step of automatically providing
2 information regarding the gaming option and the contribution to the Internal Revenue
3 Service.

1 21. An automated gaming apparatus, comprising:
2 at least one user input device which receives input selections from a user;
3 at least one user output device which provides information to said user;
4 a controller coupled to said at least one user input device and said at least one user
5 output device, said controller controlling the operation of said automated gaming
6 apparatus, said controller executing the steps comprising:
7 receiving a selection from a user using said at least one user input device to engage
8 in a gaming activity;
9 allowing said user to make an optional user pledge of a contribution to an
10 organization using said at least one user input device, said user pledge being contingent
11 on a result of said gaming activity;
12 determining user proceeds of said gaming activity based on said result;
13 presenting said result of said gaming activity to said user at said at least one user
14 output device, said presenting step being performed after said step of allowing a user to
15 make an optional user pledge;
16 if a user makes said optional user pledge, determining whether said result satisfies
17 the contingency of said user pledge; and
18 if a user makes said optional user pledge and if said result of said gaming activity
19 satisfies the contingency of said optional user pledge, reducing said user proceeds by an
20 amount of said user pledge, and crediting said organization with said amount of said user
21 pledge.

1 22. The gaming apparatus of claim 21, wherein said controller further executes the
2 step of:

3 interactively prompting said user to make said optional user pledge to an
4 organization using said at least one user output device, said step of interactively
5 prompting being performed before said step of presenting said result of said gaming
6 activity.

1 23. The gaming apparatus of claim 21, wherein said controller further executes the
2 step of:

3 automatically determining said result based on a random process.

1 24. The gaming apparatus of claim 23, wherein at least one of (a) a probability that
2 said result will be favorable to said user, and (b) the amount of said user proceeds in the
3 event said result is favorable to said user, are dependent on whether said user makes said
4 optional user pledge.

1 25. The gaming apparatus of claim 21, wherein said step of allowing said user to make
2 an optional user pledge comprises allowing said user to select an organization to receive
3 said pledge.

1 26. The gaming apparatus of claim 21, wherein said controller further executes the
2 step of:

3 automatically providing information regarding said user proceeds and the amount
4 credited to said organization to the Internal Revenue Service.

1 27. The gaming apparatus of claim 21, wherein said at least one user output device and

2 said at least one user input device comprises an interactive visual display terminal.

1 28. A program product for use in an automated gaming apparatus having at least one
2 user input device and at least one user output device, comprising:

3 a plurality of processor-executable instructions recorded on signal-bearing media,
4 wherein said instructions, when executed by at least one processor of said automated
5 gaming apparatus, cause the apparatus to perform the steps comprising:

6 receiving a selection from a user to engage in a gaming activity;

7 allowing said user to make an optional user pledge of a contribution to an
8 organization using said at least one user input device, said user pledge being contingent
9 on a result of said gaming activity;

10 determining user proceeds of said gaming activity based on said result;

11 presenting said result of said gaming activity to said user at said at least one user
12 output device, said presenting step being performed after said step of allowing a user to
13 make an optional user pledge;

14 if a user makes said optional user pledge, determining whether said result satisfies
15 the contingency of said user pledge; and

16 if a user makes said optional user pledge and if said result of said gaming activity
17 satisfies the contingency of said optional user pledge, reducing said user proceeds by an
18 amount of said user pledge, and crediting said organization with said amount of said user
19 pledge.

1 29. The program product of claim 28, wherein said instructions further cause said
2 apparatus to perform the step of:

3 interactively prompting said user to make said optional user pledge to an
4 organization using an interactive display device, said step of interactively prompting
5 being performed before said step of presenting said result of said gaming activity.

1 30. The program product claim 28, wherein said instructions further cause said
2 apparatus to perform the step of:

3 automatically determining said result based on a random process;

4 wherein at least one of (a) a probability that said result will be favorable to said
5 user, and (b) the amount of said user proceeds in the event said result is favorable to said
6 user, are dependent on whether said user makes said optional user pledge.

1 31. The program product of claim 28, wherein said instructions further cause said
2 apparatus to perform the step of:

3 automatically providing information regarding said user proceeds and the amount
4 credited to said organization to the Internal Revenue Service.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gordon J. Smith

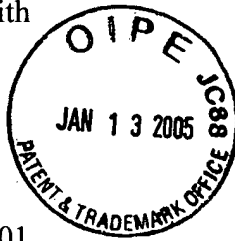
Group Art Unit: 3629

Examiner: T. Nguyen

Serial No.: 09/781,010

Filed: February 9 2001

Title: SYSTEM AND METHOD FOR ENABLING
USERS OF GAMING ACTIVITIES TO
AUTOMATE THEIR TAX DEDUCTIBLE AND
CHARITABLE CONTRIBUTIONS



: Date: January 10, 2005
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**APPEAL BRIEF IN SUPPORT OF APPEAL
FROM THE PRIMARY EXAMINER TO THE BOARD OF APPEALS**

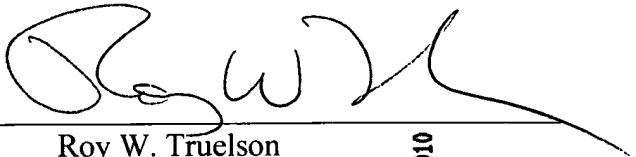
Applicant herewith submits an appeal brief in support of the appeal to the Board of Appeals from the decision dated August 9, 2004, of the Primary Examiner finally rejecting claims 1-9 and 21-31.

The appeal brief fee of \$500.00 is to be charged to Deposit Account No. 09-0465. A duplicate copy of this sheet is enclosed.

Date: January 10, 2005

Respectfully submitted,

GORDON J. SMITH


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CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

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Serial No. 09/781,010

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